



# **Agriculture Conservation Assistance Program**

## **POLICY**

**Approved February 12, 2025**

### **Background**

The Westmoreland Conservation District (WCD), through an AGREEMENT with the State Conservation Commission (SCC) will administer the Agriculture Conservation Assistance Program (ACAP). The Program will be conducted in accordance with the act of July 11, 2022, P.L. 540, No 54 (72 P.S. §§ 1601-R — 1604-R) and the State Conservation Commission's policies and guidance outlined in the delegation agreement.

### **Program Administration**

The WCD will carry out administrative responsibilities. Administrative responsibilities includes but is not limited to determination of funding priorities, application completeness reviews, ranking of applications, and presenting funding recommendations to the WCD Board of Directors for approval/disapproval.

### **Technical Assistance**

The WCD will provide technical assistance to interested farming operators/landowners. Technical assistance includes manure management plan development, agriculture erosion and sediment control plan development, inventory & evaluations, ACAP application assistance, project design, project bidding, and construction management/inspections.

### **Application Retention**

The WCD will retain applications on file for the lifespan of the best management practices (BMPs) implemented.

### **Conflict of Interest**

Any WCD employee or District Director will not evaluate, rank, or participate in any deliberation for approval or disapproval in which they or any direct family member has financial tie or stand to benefit from the completion or lack of completion of a project funded by the Program.

### **Submittal of Applications**

The WCD will allow an applicant to submit as many applications for program funding as they wish up to \$500,000.00 in funding (cumulative). All initial applications must address untreated animal concentration areas (ACAs) in order to be eligible for additional BMPs. The application period will be an ongoing basis while funding is available. All applications will then be ranked within 90 days using the approved evaluation form. Following the ranking period, the highest ranking applications will be presented to the District Board for action.

### **Program Notification**

The WCD will promote the Program to farming operations and partnering agencies.

### **Discrimination Clause**

The WCD shall prohibit the discrimination on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status.

### **Equal Access Clause**

All Westmoreland County farming operators/landowners are eligible to apply for funding under the Program to implement the BMPs within the ACAP guidelines approved by the State Conservation Commission.

### **Program Evaluation**

The WCD will rank all program projects on a quarterly basis, at a minimum, with the approved evaluation form within 90 days of receipt of a complete application. The program evaluation form will be periodically reviewed/updated to align with WCD ACAP program priorities.

The WCD has identified priority BMPs, however an applicant is not excluded from applying for other BMPs. Priority BMPs identified include; stabilized farm lane/access roads (cropland and farmstead), animal walkway, streambank fencing (min. avg. 35 ft. width), riparian buffers (min. avg. 35 ft. width), spring developments with watering troughs, stream crossings, and animal heavy use area protection (gravel feeding, non-housing), diversions, and grassed waterways.

Funding is limited to \$100,000.00 unless all priority areas on the operation are already addressed or will be as part of the project. Applications will be funded by highest to lowest ranked project. 1<sup>st</sup> priority projects meet all the requirements of the SCC and achieve multiple WCD priorities. 2<sup>nd</sup> priority projects will receive funding only after all 1st priority projects have received funding.

The WCD reserves the right to deny an application due to active compliance and/or enforcement actions, or a court order issued by or on behalf of the Commission or cooperating agency for violations of Act 38 of 2005, the Clean Streams Law or other program administered by the Commission or any other criteria established by the Commission.

### **Grant Agreements**

When an application has been accepted and approved by the WCD board, the WCD will enter into a contract agreement. The contract, when signed by both parties, is a legally binding document between the applicant and the WCD that describes in detail the responsibilities of both parties. No funding transfers can take place with program participants, and no project work can begin, without a signed contract. The contract states the terms and conditions for the project. All contracts must be made using the "Agriculture Conservation Assistance Program Grantee-District Agreement" form that has been approved by the Commission.

### **Bidding Requirements**

Project bidding will comply with the WCD Bidding Policy.

### **Project Funding/Partnership Signage**

Upon the full execution of the project agreement the applicant will permit the WCD to install educational signage about the project's funding source and partnerships.

## **Match**

The farmer/landowner is required to provide a minimum 15% match of the ACAP funding request to be eligible for funding. Match can be provided through in-kind services, cash, or materials. In-kind services includes but is not limited to farmer/landowner's labor and/or purchasing of materials for the implementation of Ag BMPs. Match can be claimed for the implementation of Ag BMPs for up to 3 years prior to applying for ACAP funding. Other grant funding sources, such as the USDA NRCS Environmental Quality Incentives Program (EQIP), FSA Conservation Reserve Enhancement Program (CREP), and Growing Greener **cannot** be used towards the farmer/landowner match requirement. However, the before mentioned programs can be used for supplemental funds.

## **Farmer Labor & Equipment**

If the applicant chooses to perform labor towards the completion of their project, beyond the required ACAP funding match requirement, without other documentation the WCD will reimburse farmer labor at a rate of \$30.00/hour. If the applicant seeks reimbursement for farmhands, payroll with the farmhand rate must be provided for proof of rate paid. Farmhand rates can only be reimbursed at the actual rate paid. Farmer owned/rented equipment labor can be reimbursed at the current Federal Emergency Management Agency (FEMA) schedule of equipment rates. Receipts for material costs must be provided for reimbursement. Materials will only be reimbursed for the amount necessary for completion of the designed project. WCD will review receipts for concurrence with installed quantities.

## **Grant Agreement Amendments**

When the total amount of the project cost increases from the Grantee-District Agreement, an ACAP Grant Agreement Amendment will be submitted to WCD with the requested funding change, supporting documentation, and reasons for the change documented. Amendments to funding will be reviewed for concurrence by WCD staff and approval shall be made at the discretion of the WCD program staff, up to 20% of the original funding amount. The Program will consider granting extensions to agreements provided a request is made in writing using the ACAP Grant Agreement Amendment before the contract expires. Grantee-District Agreements will be extended for a maximum of one year. Time extensions will be reviewed by WCD staff for approval. An applicant will only be eligible to receive funding for additional projects when they have completed their currently funded project(s); or it is considered an emergency project by WCD and in need of immediate work.

## **Application Resubmittals**

Any applications that were previously submitted to the WCD, ranked, and allocated funding, but did not complete the Agreement or BMPs, will not be eligible for future consideration until the issue that prevented the Agreement or BMPs from being completed is rectified.

WCD will work with program participants to revise the scope of their applications that do not meet program policies. WCD may make minor changes to the application and have the applicant show concurrence by initialing and dating the change. In cases where significant changes are needed to the application work plan, WCD will work with the program participant to create a new application that represents an acceptable project. Examples of "significant changes" may include: changes in project scope, recommended design changes, considerations for engineering and permitting costs, etc...

## **Payments and Certification**

Upon the full execution of the project agreement and completion of the project design, an applicant who chooses and is capable of performing all labor to complete the project design may request in writing an advanced payment of up to 50% of the contract funds. An advance payment will only be eligible for material costs and a valid quote (within 30 days or other specified quote guarantee) must support the requested advancement of funds. The advanced funds will be utilized solely for eligible expenses as contained in the project application and design. The applicant shall supply the district with proof of payment receipts, weigh slips, and/or other appropriate supporting information to document proper expenditure of advanced payments, prior to receiving additional payments under their agreement. The remaining 50% of the contract funds will be withheld until satisfactory completion of project for actual services performed consistent with the project application, the work plan, and satisfaction of the WCD.

Upon the full execution of the project agreement and completion of the project design, an applicant may designate their ACAP grant payments to the project awarded contractor using the "ACAP Assignment of Payment Form". Contractors may submit invoices to WCD throughout the project with documentation of expenses that have occurred. Contractor payments will be limited to the WCD approved quote or bid prices submitted, unless WCD has approved appropriate addendums/field changes.

If applicable, an applicant may designate their ACAP grant payment for plan writing to a certified plan writer/consultant using "ACAP Assignment of Payment Form". Plan writers/consultants should submit documentation of a signed contract with the ACAP Grantee, and an invoice for their services to WCD prior to receiving payments. A plan writer may request up to 50% of the approved payment prior to full plan completion/approval. The remaining 50% will be withheld until the plan has been verified or reviewed for approval. Plan writer payments will be limited to the WCD approved quote or bid prices submitted, unless WCD has approved appropriate addendums/field changes.

All addendums/field changes must be approved by WCD prior to the implementation, in order to be eligible for approval.

A final payment for the project will be withheld until the completion/certification of the project BMP(s). If a project's BMP(s) require review and certification by a registered professional engineer under the applicable laws or regulations of this Commonwealth, the BMP shall be certified by a registered professional engineer. Those BMPs required to meet the Natural Resource Conservation Service (NRCS) standards and specifications shall be certified by a technical service provider, staff from conservation district having the appropriate job approval authority, the USDA-NRCS, or any other qualified person who has appropriate training and expertise and is approved by the Commission.

Payment may be withheld on account of defective work not remedied, liens filed, damage by the contractors to others.

## **Local Advisory Board**

The WCD Agriculture Advisory Committee will serve only in an advisory role. The committee will not make any determinations related to application evaluations or funding recommendations.

## **Compliance**

The WCD reserves the right to cancel applicants' ACAP agreement due to active compliance and/or enforcement actions, or a court order issued by or on behalf of the Commission or cooperating agency for violations of Act 38 of 2005, the Clean Streams Law or other program administered by the Commission or any other criteria established by the Commission.

Landowners/operators must be in compliance with state and local regulations and laws (including but not limited to 25 PA Code Chapters 102, 105, 91, 83, and PA Act 38) or working towards achieving voluntary compliance to be eligible for ACAP. Landowners/operators must maintain compliance with state and local regulations and laws for duration of the ACAP contract. If landowner/operator fails to comply, this will result in termination of the landowner/operator's ACAP contract and repayment/refund of any ACAP funds that has been issued to the landowner's project to install best management practices.

Landowner/operator (Grantee) shall refund all or a prorated value (at the discretion of WCD staff) of the BMPs installed if the landowner intentionally destroys, alters, or modifies the BMPs before the lifespan of the BMP expires. Alterations/destruction that occurs due to weather events would not apply. These scenarios will be reviewed with the WCD Agriculture Compliance Committee for a determination of actions to be taken, and then brought before the WCD Board of Directors for a final action.

If a property with ACAP funded BMPs is sold prior to the BMP lifespan, it is the Grantee's responsibility to notify the new landowner of ACAP funded BMPs and their lifespan, which limits destruction, alteration, or modifications. Should WCD become aware of the before said situation, WCD will consult with the WCD Agriculture Compliance Committee, and if necessary the SCC, for a determination of necessary actions to be taken.

If an agreement/contract is terminated prior to the implementation of the ACAP project design, the landowner/operator (Grantee) shall reimburse the Westmoreland Conservation District (Grantor) any acquired costs, including engineering and design costs.

Failure to comply with the WCD ACAP policy will be brought before the Agriculture Compliance Committee for review and determination of appropriate actions, which could result in, but not limited to, termination of the ACAP Grantee-District Agreement, refund of grant funds to the District, and/or ineligibility to apply for future program funds.

## **Cover Crop Initiative**

The Cover Crop Initiative will be a cost share initiative with no match required by the applicant. The District reserves the right at any point in time to open a cover crop initiative application period before the fall planting season, with a **maximum** initiative allocation of **\$50,000.00**. An eligible applicant could apply to the initiative as long as ACAP cover crop funds are available. During the application period, Cover Crop initiative applications will be accepted on an on-going basis and evaluated in the order in which they were received. Priority will be given to 1<sup>st</sup> time cover crop applicants. However, applicants that have previously planted cover crops may still apply. A landowner/operator is limited to one (1) application per crop year, with a maximum request of 100 acres for no-till, minimal tillage/broadcast. Conventional tillage practices are not eligible. Cover crops should be planned within the agriculture erosion and sediment control plan or conservation plan.

Cover Crops can be terminated, grazed, or harvested for straw or silage for the grower's own operational use. Cover crops harvested and sold for profit (cash crop) **may** receive a reduced rate. Cover crop seed must be tested and properly labeled in accordance with the PA Seed Law and regulations. Seed grown by the applicant must be tested for purity, germination, and the absence of noxious weeds by a recognized seed laboratory to be eligible for the cover crop initiative, documentation should be provided with the cover crop application. Seed grown by the applicant will receive 50% of the associated cost share.

The acreage within the cover crop application cannot have other funding sources/incentives awarded, such as USDA NRCS EQIP, SCC Reserve Enhancement and Protection (REAP) Program, or other local/state/federal cover crop incentive programs.

Applicants are only eligible for the initiative up to 3 years, and must reapply each available funding round. The District reserves the right to determine when each funding round will occur based on funding availability. Applications for cover crops will only be accepted during the designated application timeframe, or until funds have been exhausted. Applications that did not receive funding will not roll over to the next funding round.

Awarded applications will enter the ACAP Cover Crop initiative contract following notification of allocated funds. The grantee will be required to notify the District when planting of the cover crops are completed. The District will complete a field check approximately 1-2 months after planting occurs to ensure the cover crop is viable. Following a successful field check (>70% uniform coverage), the District will request the grantee to submit a copy of the receipt for the cover crop seed. After review, the cost share payment will be issued to the grantee.

If it was determined that the cover crop planting was unsuccessful (<70% uniform coverage, minimum of 50%), then 50% of the allocated contract award will be paid to applicant for an attempt to implement cover crops. If following the field check there is no sufficient evidence that the cover crop was effectively planted (none/very minimal coverage), the contract will be terminated and no payments will be issued.

#### **Maximum Cover Crop Payment:**

##### **No-Till**

Max 100 acres for single species (\$35 per acre) - \$3,500.00

Max 100 acres for multiple species (\$45 per acre) - \$4,500.00

##### **Minimal Tillage/Broadcast**

Max 100 acres for single species (\$25 per acre) - \$2,500.00

Max 100 acres for multiple species (\$35 per acre) - \$3,500.00

\* Seed grown by the applicant will receive 50% of the associated cost share.

\*Cover crops harvested and sold for profit (cash crop) may receive 50% of the associated cost share.